

FILED

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

APR 5 2004

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT



DAVID H. SITRICK )  
 )  
 Plaintiff )  
 )  
 v. )  
 )  
 FREEHAND SYSTEMS INC., and )  
 THEODORE L. SCHROEDER )  
 )  
 Defendants. )  
 )

Case No. 02 C 1568

Judge Ronald A. Guzman

Magistrate Judge Morton Denlow

JURY DEMAND

DOCKETED

APR 06 2004

AMENDED COMPLAINT

NOW COMES Plaintiff, David H. Sitrick, by his attorneys and for his Amended Complaint against defendants Freehand Systems, Inc. ("Freehand") and Theodore L. Schroeder, alleges the following:

1. This is an action for patent infringement arising under the patent laws of the United States (Title 35, United States Code) as appears more fully hereinafter. This Court has jurisdiction under Title 28, United States Code, Section 1338(a); and venue lies in this District under the provisions of Title 28, United States Code, Section 1400 (b).

2. Plaintiff, David H. Sitrick, is a resident of the state of Illinois and of this District.

3. On March 17, 1998, United States Patent No. 5,728,960 (hereinafter "the '960 patent") was duly and legally issued to plaintiff for "Multi-Dimensional Transformation Systems and Display Communication Architecture For Musical Compositions" invented by plaintiff, and since that date, plaintiff has been and still is the owner of the '960 patent.

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4. On July 4, 2000, United States Patent No. 6,084,168 (hereinafter "the '168 patent") was duly and legally issued to plaintiff for a "Musical Compositions Communications System, Architecture And Methodology" invented by plaintiff, and since that date, plaintiff has been and still is the owner of the '168 patent.

5. On information and belief, defendant Freehand, is a Nevada corporation with a principal place of business in Los Altos, California.

6. On or about February 17, 2002, defendant FreeHand came to Chicago, Illinois to exhibit and offered for sale its MusicPad Pro music management systems to individuals employed or affiliated with The Chicago Lyric Opera and otherwise does business in Illinois. Accordingly, this Court has personal jurisdiction over defendant FreeHand System, Inc.

7. On or about January 17, 2002, defendant FreeHand attended the National Association of Music Merchants (NAMM) in Anaheim, California.

8. On information and belief, at the January 17, 2002 NAMM show, defendant Freehand offered for sale and took orders for approximately 20 to 25 MusicPad Pro music management systems.

9. On information and belief, defendant FreeHand also solicits sales of its MusicPad Pro and MusicPad Pro Plus music management systems via its website:  
<http://www.freehandsystems.com>.

10. Both the MusicPad Pro and MusicPad Pro Plus products incorporate and utilize technology disclosed and claimed in the '960 and '168 patents.

11. On information and belief, defendant Theodore L. Schroeder ("Schroeder") is a California resident.

12. On information and belief, defendant Schroeder is Vice-President of Engineering at FreeHand, and in his position as Vice-President of Engineering, Schroeder is responsible for the development of the hardware and software used in the MusicPad Pro and MusicPad Pro Plus products.

13. On information and belief, defendant Schroeder and Dana Schroeder are the only investors in KAL Equity Group, Ltd., a California corporation located at the same address as FreeHand in Los Altos, California.

14. On information and belief, KAL Equity Group, Ltd. is the only investor and the only source of funding for defendant FreeHand.

15. Upon information and belief, defendant Schroeder has reviewed the '960 and '168 patents and made a determination that FreeHand was either not infringing some of the claims in these patents, or if the Court construed the claim broadly enough to cover the MusicPad Pro device, that the claims would be invalid over prior art.

16. Upon information and belief, Schroeder's determination as to FreeHand's non-infringement and/or the invalidity of the claims of the '960 and '168 patents induced FreeHand to commit acts of infringement.

17. Defendant Schroeder has committed acts of infringement of the '960 and '168 patents in this district and elsewhere in the United States, and will continue to do so unless enjoined by this court.

18. Defendant FrecHand have and are still directly, contributory, and/or by inducement infringing the '960 and '168 patents in this District and elsewhere in the United States by making, selling, offering for sale, and/or using the MusicPad Pro and MusicPad Pro Plus products, and will continue to do so unless enjoined by this Court.

19. On or about October 15, 2001, plaintiff gave written notice to defendant FrecHand informing them of the existence of both the '960 patent and the '168 patent.

20. Acts of infringement by the defendants have therefore been willful and deliberate.

WHEREFORE, plaintiff prays that this Court:

- A. Adjudge United States Patent No. 5,728,960 to be infringed by defendants and not invalid;
- B. Adjudge United States Patent No. 6,084,168 to be infringed by defendants and not invalid;
- C. Preliminarily and permanently enjoin defendants and all those in active consort or participation therewith from infringing United States Patent Nos. 5,728, 960 and 6,084,168;
- D. Order defendants to account to plaintiff for damages sustained by plaintiff as a result of defendants' infringement of United States Patent Nos. 5,728,960 and 6,084,168

with interest, said damages so found then to be increased three-fold pursuant to 35 U.S.C. § 285 upon the Court's finding that the present case is exceptional;

E.. Award plaintiff his costs, expenses, and reasonable attorney fees for bringing and prosecuting this action; and


F. Award plaintiff such other and further relief as the Court may deem just and proper.

**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, plaintiff hereby demands a trial by jury of all issues triable by jury in this action.

Respectfully submitted,

Dated: April 5, 2004

  
Keith V. Rockey  
Thomas C. Elliott, Jr.  
Joseph T. Bernstein  
WALLENSTEIN WAGNER & ROCKEY, LLC  
311 South Wacker Drive  
Suite 5300  
Chicago, Illinois 60606  
Telephone: (312) 554-3300  
Facsimile: (312) 554-3301

Attorneys for Plaintiff  
DAVID H. STRICK

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

DAVID H. SITRICK,	)	
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Plaintiff,	)	Civil Action No. 02 C 1568
	)	
v.	)	Hon. Ronald A. Guzman
	)	
FREEHAND SYSTEMS, INC. and	)	Magistrate Judge Morton Denlow
THEODORE L. SCHROEDER,	)	
	)	
Defendants.	)	

**CERTIFICATE OF SERVICE**

The undersigned counsel for plaintiff, David H. Sitrick, hereby certifies that a true and correct copy of each of the AMENDED COMPLAINT and the SUMMONS IN A CIVIL ACTION directed to defendant Theodore L. Schroeder were served, with a copy of this Certificate of Service, on each of the below-listed counsel for defendant, FreeHand Systems, Inc., in the manner indicated on this 5th day of April, 2004.

**By Hand Delivery**

Robert Unikel, Esq.  
Mayer Brown Rowe & Maw, LLP  
190 South LaSalle Street  
Chicago, Illinois 60603-3441  
Facsimile (312) 701-7711

**By First Class Postage Prepaid Mail**

David A. Jakopin, Esq.  
Pillsbury Winthrop LLP  
2475 Hanover Street  
Palo Alto, California 94304

April 5, 2004

DAVID H. SITRICK

  
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KEITH V. ROCKEY (ID No. 2360624)

THOMAS C. ELLIOTT, JR. (ID No. 3128679)

JOSEPH T. BERNSTEIN (ID No. 6281025)

Wallenstein Wagner & Rockey, Ltd.

311 South Wacker Drive, 53rd Floor

Chicago, Illinois 60606

Telephone: (312) 554-3300

Facsimile: (312) 554-3301

Attorneys for Plaintiff